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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,792	04/03/2003	Alexander Kolbeck	KOLB3002/jek	8670

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EXAMINER
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DAGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/926,792

Applicant(s)

KOLBECK ET AL.

Examiner

Stephen M. D'Agosta

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-12 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

1. The amendment overcomes the examiner's objections to the IDS and specification format.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-5 and 8-12** rejected under 35 U.S.C. 103(a) as being unpatentable over Peyret et al. US 5,923,884 and further in view of Raith US 6,498,550 and Wambach et al. US 6,330,648.

As per **claims 1, 4, 8 and 12**, Peyret teaches a method for operating a data carrier (eg. smart card, see title), equipped with a memory device (figure 1 shows RAM, ROM and NVM, also C2, L13-31) and a program execution unit for executing function programs contained in the memory device (figure 1 shows CPU, #22), comprising the steps:

installing a function program in the memory device of the data carrier for realizing a loader interface which in turn makes it possible to reload function programs each realizing a load application (figure 3 shows an Application Loader, #62 and Interface #86 and/or #88 while #62 teaches a Loading Control Program),

Art Unit: 2683

providing a free memory space available for the loader interface in the memory device (C4, L53 to C5, L12 teaches loading applications into memory such as RAM and or NVM or ROM),

reloading at least one load application via the communication device into the memory device, said reloading being controlled by the loader interface, and the load application being allotted a part of the free memory space as an assigned address space (figure 4 shows multiple application programs that have been loaded/reloaded, #94, #96).

**But is silent on** equipped with a communication device and wherein the loader interface cannot access an assigned address space after a load application is assigned to the assigned address space.

Raith teaches a mobile communications device/phone with a smart card – “...Regardless of the type of proximity detector used, it can be incorporated into a removable part of the mobile station, e.g., a smart card such as the subscriber identity module (SIM) card used in GSM systems...” (C8, L54-57).

Wambach teaches a computer memory with anti-overwrite protection (title) whereby a write protection circuit prevents any write requests specifying the memory locations (contained in a listing) to be carried out (abstract, figure 4 and C6, L50-57) which reads on the claim. The examiner notes that once a program is downloaded, it must be stored in an area whereby it cannot be overwritten since this will, in essence, destroy the program and require another download of said program. Hence, systems such as Microsoft Windows have memory areas that programs are downloaded to which are protected from being overwritten with user data, as described by Wambach.

**With further regard to claim 8**, Raith teaches using a mobile phone with integrated SIM card as a replacement for a badge (figures 3 and 5, and “..According to exemplary embodiments of the present invention, mobile stations, e.g., cellular phones, are equipped with a device that enables the phone to detect the presence of a proximity system 320. This device may, for example, function in a substantially similar manner as an authorization badge...” (C7, L31-56) and “...Coupling authentication with proximity systems as described above creates various new and interesting usages for the present

Art Unit: 2683

invention. For example, the mobile station 350 (or the smart card within the mobile station) could function as a key to unlock a door of office park 330. When near a locked door within this facility, the mobile station's authorization to enter can be determined using one of the aforescribed authentication procedures. More specifically, as an example, the smart card within the mobile station may include the proximity detector. When the proximity signal is received, the smart card can then send a signal to the mobile station's processor to search for the privrad system 310's control channel and log-in. After logging in to the system, the mobile station may perform authentication via the privrad system. If successful, the authentication results can be shared with the proximity system 320 and the nearby door can be unlocked (C9, L49-65). Hence, one skilled would use the system described either with a badge-plus-SIM Card and/or a phone-plus-SIM card.

***With further regard to claim 12***, Peyret teaches a function program, for reloading at least one application program into the memory device via the communication device (figure 3 teaches an Application Loader #60 and figure teaches a Loading Control Program, #62) AND assigning memory space in the memory device to an application program to be loaded in accordance with size information contained on the smart card (Application Loader and Loading Control programs must either load program and produce a "Load Failure" if the program is too large and/or inherently determine if a program will fit into the smartcard's available memory, RAM, NVM or ROM **but is silent on** the loader interface having means for checking a badge of an application program to be loaded. Raith teaches a phone/smart card as replacing a badge proximity system (see above).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Peyret, such that the data carrier is equipped with a communications device, to provide means for the data carrier to have wireless communication means (eg. as a proximity detection badge per Raith's disclosure).

Art Unit: 2683

As per **claim 2**, Peyret teaches the method according to claim 1, comprising the following further step:

reloading at least one application program via the communication device by the program execution unit under the control of the load application into the assigned address space allotted thereto (figure 4 shows loading an applet into the smart card, C7, L20 to C8, L23).

As per **claim 3**, Peyret teaches the method according to claim 1, wherein the loader interface provides control over an assigned address space allotted to a load application to the load application (figure 3 shows an Application Loader #62 while figure 4 shows a Loading Control Program #62, both of which would install an application into the system memory so as to ensure that it is findable and therefore executable. Hence, Peyret's system inherently has control over the entire assigned address space allotted to applications otherwise the system would not work correctly, eg. the application could potentially over-write operating system programs).

As per **claim 5**, Peyret teaches the data carrier according to claim 4, **but is silent on** including a load application received in the memory device that controls a pad of the free memory space associated with the loader interface, independently of the loader interface.

Peyret does teach that RAM is used as a non-savable scratchpad by the O/S and applications (C5, L2-11) and support for loading multiple applications (figure 4, #94 and #96) which inherently requires separate memory allocations otherwise the applications would "step all over each other" in memory and over-write data from another application(s).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Peyret, such that it includes a load application received in the memory device that controls a pad of the free memory space associated with the loader interface, independently of the loader interface, to provide means for efficiently loading programs into their own memory areas whereby the O/S instructs said programs where to write their data so as not to interfere with other programs.

Art Unit: 2683

As per **claim 9**, Peyret teaches the method according to claim 8, wherein the badge furthermore contains information designating the application program (figure 4, the interface connection #86 to #88 will recognize which terminal #80 the smart card is connected to and select the appropriate Application Program, #94 or #96, etc. to execute via the Transaction Program #66).

As per **claim 10**, Peyret teaches the method according to claim 8, wherein the badge furthermore contains a signature for proving the authenticity of the application program (C6, L15-27 and C7, L43-67 both teach authentication).

As per **claim 11**, Peyret teaches the method according to claim 8, **but is silent on** wherein the badges are issued by the issuer of the data carrier.

Raith teaches a mobile phone with integrated smart card whereby the phone service provider inherently issues (eg. sells) the phone and smart card.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Peyret, such that the badges are issued by the issuer of the data carrier, to provide means for one issuing authority to control the dissemination of the data carrier and communication device for security purposes (as well as making it easy to acquire both, eg. one-stop shopping).

Art Unit: 2683

**Claim 6** rejected under 35 U.S.C. 103(a) as being unpatentable over Peyret, Raith and Wambach as applied to claim 4 above, and further in view of Carper US 6,256,690.

As per **claim 6**, Peyret teaches the data carrier according to claim 4 **but is silent on** wherein the load applications are designed to link application programs to be reloaded with application and function programs already present on the data carrier, during loading.

Carper teaches a smart card system (title) that provides for; 1) multiple applications to be stored on one smart card and 2) application(s) that can call other application(s) [abstract, C4, L57-59 and C5, L13-21] which reads on the claim.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Peyret, such that the load applications are designed to link application programs to be reloaded with application and function programs already present on the data carrier during loading, to provide means for the programs to have interconnectivity on the smart card and call other programs as needed.

### ***Allowable Subject Matter***

**Claim 7** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The claim recites a highly specific design which is novel in the examiner's opinion and not found in the prior art cited.



Art Unit: 2683

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta  
9-2-2005



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